Communications Division of Cochran, Fox & Co. INC.

Compensation

(414) 727-1313 - Fax (414) 727-1311

(competitive ppo Opposes dial arounds calling card)

Secty: Please file

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Tracket if a Debt No.

Mr. Reed Hundt Chairman FCC 1919 M Street NW Room 814 Washington, DC 20554 MAY 2 C 1770

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Dear Mr. Hundt,

Please take time to read the enclosed as you likely have not been told the whole truth here-to-fore. Your reputation as an anti-trust advocate makes me hopeful that you may have an interest in this situation.

I can't believe that the FCC is aware of the impact of their recent dial-around decisions. You could not be so insensitive as to ruin my business and others like it.

Respect, fully,

Terrence S. Fox

Citizen, Family Man and Small

Struggling Businessman

enclosure

cc: Al Gore*

Newt Gingrich*
Larry Pressler*
1995 Address List

TSF: kmc

*with personalized cover letter

COMPETITION IN PROVISION OF PAY TELEPHONES

I. Summary

The public that depends on pay telephones demand quality connections at competitive rates. The proper American way to achieve this end is through competition.

The FCC established the independent pay telephone industry in 1984 but did not protect entrants into this industry from being financially gouged by the entrenched monopolies (i.e. AT&T, Nynex, GTE, et.al.).

AT&T et.al. lost much business to competitive market entrants. They tried to buy back the traffic with 20% commissions to call aggregators such as this company. Their program failed so AT&T issued proprietary phone cards to pirate the call traffic. The FCC sanctioned this call pirating and created dial-around access to accomodate AT&T et.al.

The dial-around concept is anti-competitive and supports the continuation of AT&T et.al. telephone monopolies. It would be judged outrageous if the government regulated that McDonalds could demand that Burger King make McDonalds products available at Burger King and have the customers pay the revenue to McDonalds. Further, that McDonalds pay Burger King two cents on the dollar in 'compensation' for the pirated business. Never-the-less somehow the government has judged their actions as reasonable.

The FCC has provided what it calls 'compensation' for the dial-around access at non-compensatory levels. In fact, the collected 'compensation' this company has received amounts to less than two cents on each dollar of call revenue lost computed at AT&T tariffed rates. These actions have killed competition in this market and is about to bankrupt the new industry.

The simple solution to the competition problem is: a. controls on the charges AT&T et.al. may make of competitive providers of pay telephone services; b. temporary controls on interstate rates that competitive providers may charge the end users; and c. the abolition of the dial-around concept.

To make this work AT&T et.al. would have to abolish the proprietary nature of some phone cards and make validation and billing information available on their phone cards just as Federal Judge Greene has ordered for local exchange companies such as GTE, Nynex, Ameritech, etc. The public would be happy and competition would flourish and rates on payphones would be held down.

II. Introduction

In April of 1984 it became possible, by FCC partial deregulation, for non-monopoly entities to enter the market of provision of pay telephone service. The door to competition in this segment of the market was opened slightly. Provision was not made to ensure that market entrants (i.e. facility owners or their subcontractors) would be able to purchase monopoly service at wholesale costs and resell them at competitive retail rates. In addition, entrants would specifically not be able to purchase monopoly central office pay telephone logic software and hardware — indeed the market entrants were required to provide their own pay station logic (i.e. instrument — independent pay station equipment).

The nation now has many small companies such as this company. These many companies make up a fledgling independent telephone industry that has attempted to make inroads into a market dominated by the entrenched monopolies (e.g. AT&T, GTE and the regional Bell operating companies). Market entrants have paid retail and retail plus and received less services than are provided others at the same or lower rates. Many have tried and failed to succeed.

Like most entrants into competitive provision of public pay telephones, this is for us a family business. My wife and I have a boy in college and a baby due in July. We have our life savings at risk in this business. We depend on our business to make ends meet. It has been tough over the past 10 years to make a go of it. Recent FCC decisions have made it doubtful that we will continue to survive - let alone compete and expand head-to-head with the entrenched monopolies.

III. Discussion

A. Background

Approximately 20% of pay station generated revenue is coin and 80% of pay station generated revenue is calling card, collect, third party or 1-800 type calls. Early on, in the mid-1980's, we collected only coin. The

monopolies jacked our monthly charges to well above retail and took all non-coin revenue on our service for themselves. We lost money and we nearly went bankrupt before we received any non-coin revenue. In fact, only a tiny fraction - about one in one hundred - who tried to succeed in the new industry has survived thus far.

In the late 1980's we in the industry were able to aggregate some non-coin calls and we began to improve our lot. We couldn't grow and we still could not generate any revenue on 1-800 calls but we stopped losing money. We then developed the technical capability to store call record information and bill calling card, collect and third party billed calls using phone cards issued by AT&T and the local exchange companies. We then began to recover capital. After nearly 10 years in the business we have yet to earn a significant return on our investment.

The monopolies have continued to keep our costs for monopoly provided services at or above retail. We have been charged much more for local network services and billing and collection services than the local and long distance carriers charge each other. This forced some in the industry to pass their higher costs on to the public and gave AT&T et.al. a market advantage and gave our fledgling industry a black eye in the market-place. This company has kept its rates competitive.

AT&T, in 1987, tried to regain the traffic they had enjoyed, but lost, by offering 15%-20% and higher commissions on aggregated traffic to companies such as ours. They also kept things "in-the-family" with the local carriers by requiring as part of their "commission plan" that other non-coin traffic be directed to the local exchange carrier. Note that on a typical AT&T call of 6 minutes with a \$2.55 cost, that a typical commission of about \$.50 per call was to be paid to aggregators such as us. The most serious problem with their plan was that in spite of their promises they could not track our calls to pay us our promised commissions. We did not receive the agreed upon payment and their program failed.

AT&T then embarked on a program that has succeeded and is flat unjust. AT&T began issuing new phone cards that were proprietary (i.e. they kept the billing name, address and phone number to themselves and to, their buddies, the local exchange companies) and refused to make billing data available to us.

Apparently they concluded that if they couldn't buy our traffic for \$.50 a call that they would take advantage of the situation and collude with the local exchange companies and simply take our traffic. We were in a very tight noose. The end user didn't understand why his phone card would be rejected by us since previously his AT&T card was accepted.

Here is the typical situation that AT&T developed. A truck driver would drive 600 miles and be tired and hungry. He arrives at his destination, fuels up, orders dinner and tries to call home but he has a new proprietary AT&T card. His card is rejected and he doesn't know why. His phone card always worked before! He is confused and angry. He complains to the facility management and threatens to "tear the phone off the wall and take his business elsewhere". All the truck driver wanted was to make his call and pay a competitive rate for the call. AT&T et.al. prevented call completion and drove some rates up by charging the new supplier retail and retail plus for services required but that they controlled. AT&T was the culprit but their proprietary card chicanery resulted in our new industry being the brunt of the truck driver's anger.

As a practical matter we had to put the call through and pay AT&T et.al. a retail 1+ rate to complete the call. We could not bill the truck driver for the call. This cost us \$1.00 to complete the call and the \$2.55 call rate which we could not bill, or \$3.55 total, on average, for each and every call. In 1993 we finally developed the ability to hand this call off to AT&T so at least we didn't have to pay to complete the call at AT&T's retail charge to us. Thus AT&T couldn't buy the call for \$.50 but they had developed a way to steal it and not pay a cent. AT&T et.al. has continued flooding the market with their proprietary phone cards.

Making the matter much worse, AT&T allows the local exchange companies to bill and collect on AT&T's proprietary phone cards so their cardholder can make a non-AT&T call (i.e. intralata) and yet another part of our business is stolen away. This practice is flat discriminatory against us and ought to be and probably is illegal.

The monopolies created with the help of the FCC a sham condition of competition that resulted in higher rates for would be competitors. Then AT&T et.al. issued phone cards with secret billing name, address and phone

number that <u>created</u> the necessity of the cardholders to access only AT&T et.al.

The end user could not use the phone card unless they accessed AT&T et.al. thus falsely creating a need to dial-around. The wrongful notion of dial-around choice for AT&T's cardholders was pushed. The FCC declared it was okay to allow AT&T et.al. to issue proprietary cards so that only they could be accessed for use of the card. The FCC also ordered the carriers to pay us \$6.00 per month per pay station for the pirated call traffic. AT&T couldn't buy the calls for \$.50 a call but with government help they have pirated the calls for less than \$.06 a call based on our call volume of pirated calls.

The argument has been that the end user should be able to access any carrier he chooses. Balderdash! Shell stations are not forced to allow customers to buy Amoco products at Shell facilities and have Amoco collect the revenue. Burger King is not forced to allow its customers to buy McDonalds products at Burger King facilities and have McDonalds collect the revenue. Dairy Queen is not expected to offer Baskin Robbins products and have the customer pay Baskin Robbins! But the FCC has determined that it makes sense to force us to allow any customer of our pay stations to use AT&T et.al. and pay that carrier! The issuance of proprietary cards forces the end user to use only AT&T - and on our service!

Impact on Competitive Suppliers of Pay Telephone Services

This company is characteristic of other would be competitors in the business of providing pay telephones in competition to the monopolies. We have an average of 150 calls per month per payphone of the type that are paid for by phone cards and are therefore candidates for pirating as described above. In fact, about 100 of these monthly calls per phone are currently pirated by AT&T et.al. The \$6.00 the FCC has previously directed we be paid for this pirated traffic amounts to 6 cents per call compensation. Put into a percent commission basis it amounts to 2.35%. Collecting even the \$6.00 (i.e. 2.35%) has proven impossible.

AT&T et.al. has disputed the existence of our payphones in a very high proportion of instances. They require confirmation of the ANIs by letter from local exchange companies on local exchange company letterhead. The local exchange companies have no obligation to provide such letters and don't in many instances and when they do, it requires unreasonable effort on our part to cajole them into providing the letters. For example, we have not been paid for many locations as far back as the 2nd quarter of 1992! Currently AT&T pays major aggregators a 20% commission - but not us!

More recently the compensation for dial-around has been increased with FCC approval to \$.25 per call for AT&T. This would amount to about 10% commission if we ever get it. Remember, AT&T can't or simply, does not track, they proved that in 1987. Ten percent is a long way from the 20% paid to others and a far cry from the \$2.55 per call we should collect for our services. We have trucks, telephones, salaries, insurance, taxes, location commissions, billing and collection costs, etc. to pay.

The FCC has regulated us into peril. The situation is not equitable in the slightest. The way the FCC has moved on these issues has strengthened the monopolies and weakened us and eliminated competition. The financial drain on us resultant from this piracy of our traffic makes it impossible to satisfy revenue sharing requirements and expectations of the owners of the locations where we have pay stations installed. The prospect of our not being able to make capital payments on our equipment is a very real threat. We have had to downsize to a bare subsistence level of staff. All the while the monopolies enjoy our traffic and pay next to nothing for that traffic.

AT&T, with their FCC approved carte blanche to trample on us, is now advertising nationally to encourage their cardholders to dial-around us. They refer to us as "no name" telephone companies. They instruct cardholders to dial 1-800-etc. Of course, we are also required to allow 1-800 calls free of charge. Someone gets paid for 1-800 calls - not us!

B. <u>Dial-Around Access on Pay Stations is a Fundamentally</u> Incorrect Concept

The prerogative of the owner of a facility to determine which competitive long distance carrier will be subscribed to has been recognized for many years. It is clearly proper for the residential subscriber to phone service to decide whether their carrier will be AT&T, MCI or whichever - after all they have alternatives and they own or control the facility and the telephone system contained therein.

Similarly, a business subscriber has the obvious prerogative to do the same. They own or control the business and the telephone system located therein. In both instances the subscriber pays the local carrier, a monopoly, and the carrier, a competitor, retail rates for their service.

Pay telephone service located in facilities frequented by persons who do not own or control the facility or the telephone system located therein is an identical circumstance, and Federal Judge Greene ordered that the facility owner could decide which carrier to use for long distance calls on payphones located at the facility! He further ordered that billing and collection information and card authorization data be made available under equal terms and conditions. This important Federal Court decision established that the entity that owns or controls the facility in which the pay station is located has the unalienable right to decide which entity is to provide local service and which entity is to provide long distance service at the facility. The dial-around access concept is flatly counter to this long established principal.

The dial-around concept puts the long distance carrier decision in the hands of AT&T because of the use of proprietary phone cards. The transient frequenter of the facility in which the pay station and telephone service is located must use AT&T et.al. because of the card. AT&T et.al. has accomplished piracy by abuse of monopoly power. The only reasons that a phone end user would want to use a specific carrier is because of cost and because of the proprietary nature of their phone card.

AT&T et.al. does not own or operate the facility nor do they own or operate the pay telephone systems installed at the facility. The real customer in charge is the facility owner and any entity such as this company or any other suppliers with which the owner has contracted to provide the service. It is not the just prerogative of AT&T et.al. or their cardholder to decide what carrier to use any more than it is for any competitor or the end user to decide what gas will be pumped or which brand of donuts, or which coffee will be sold at the facility. The FCC's unjust recent decisions have, however, given the authority de-facto to AT&T et.al. to pirate call traffic! Nowhere else in the long established principles of competitive enterprise is it allowed for a competitor to compulsorily demand that their particular product be made available at a private business at the expense

of the private business and pocket the revenue. It would strike all as ludicrous that a customer could demand a hamburger at a McDonalds facility and pay Burger King.

It appears that the ill conceived notion of dialaround access promulgated by AT&T et.al. and supported by the FCC is a throwback to monopolistic mentality rooted prior to the court ordered break-up of AT&T. Judge Greene understood the competitive concept when he ordered that the entity that owned or controlled the facility could choose the long distance carrier and also that the local exchange carriers that issue phone cards must provide billing and collection information to all. AT&T et.al. has stepped around Judge Greene's order by issuing phone cards that only they can invoice and the FCC has thus far helped AT&T get away with this outrage.

The ill conceived anti-competitive and pro-monopoly dial-around access concept put forth by AT&T et.al. and sanctioned by the FCC is wrong and should be immediately withdrawn.

C. Existing Payment for Call Pirating is Non-Compensatory

If we assume that there exists some justification that allows AT&T et.al. the use of someone else's facility to sell their generic product, then the question is what is compensatory for the entity that owns the facility and is being denied the net revenue of the pirated call.

1. Facility Investment and Operating Expense

The owner of the facility in which the pay station is located controls the facility. The facilities typically are commercial establishments such as retail stores, amusement parks, truck stops, etc.

The telephone systems are self contained central offices that do not burden the local exchange central office systems for nearly all of their functions - are owned by the location owner or are owned by an entity such as this company, Cochran, Fox & Co., Inc. which contracts with the facility to provide telecommunications services for the convenience of frequenters of the facility. It has been intended that the telephone systems are to be operated at a profit for the facility. The payphone system is not placed at

the investment of AT&T et.al. and is not in existence for the benefit of AT&T et.al. The capital investment for this provider averages \$2,400 for an indoor installation and \$5,000 for an outdoor drive-up installation. The facility owner either directly or through companies like Cochran, Fox & Co., Inc. supply the telecommunications equipment, pay the salaries and wages of the personnel that maintain the facilities, provide insurance, rents, service vehicles, taxes, gasoline, legal fees, etc. AT&T et.al. doesn't pay one red cent of the fixed or variable costs associated with the facility or the telecommunications equipment located therein or thereupon. In addition, we pay retail or above retail for the services we do get from the monopolies and get fewer central office functions than other retail business or residential customers.

2. Incremental Costs

The cost imposed upon the pay telephone service supplier by AT&T et.al. per call has been in the recent past, the <u>retail</u> 1+ charge for service outlined in the current tariffs filed by AT&T et.al. with the State and Federal regulatory agencies. AT&T et.al. imposes rates on their end users of our telephone pay stations at their tariffed 0+ rates. Therefore, the minimum value of a pirated operator assisted call is the difference between the 0+ and 1+ tariffed rates. A typical call is of 6 minutes in duration and is in the \$.28 per minute call band. The AT&T tariffed rate for this call is:

6 minutes x \$.28/min = \$1.68 plus a 0+ customer dialed automatic operator surcharge of \$.80.

The total call value is:

- \$ 1.68 duration charge
 .80 operator surcharge
- \$ <u>2.48</u> total value

The incremental cost of completion for us is currently \$0.132/minute.

6 minutes x \$.132 = \$.79

The incremental net value of this typical call is:

\$ 2.48 _.79 less

\$ 1.69

less a billing and collection cost of \$.50 results in \$1.19 net incremental revenue. We average 130 such calls per month per pay station on a year around basis.

The total value per pay station is:

130 calls/month x \$2.48/call = \$322/month

The net value per pay station is:

130 $\frac{\text{calls}}{\text{month}}$ x \$1.19 = \$154.70

AT&T is currently pirating 100 $\frac{\text{calls}}{\text{month}}$ or \$119/month

The logic employed by the FCC in determining a \$6.00 per month per pay station can best be described as \$113 per month too low. Based on the \$6.00/month/pay station only about 5 of 100 pirated calls per month are compensated.

Clearly \$6.00 per pay station per month is NON-compensatory. I believe that in light of law expressing that citizens must be fully compensated for government confiscation of property that the FCC regulation is unlawful! As of the end of 1994 I'm told - and I have read the FCC order - that AT&T has agreed to compensate us for pirated traffic at the rate of \$.25 per call that they somehow will magically determine how many calls they have pirated.

AT&T has not demonstrated in the past that they can and will track these calls. In fact, they have failed to do so in the past when contractually obligated to do so. In addition, they have here-to-

fore disputed the existence of 680 pay stations on invoices presented by this company for the paltry \$6.00/phone/month and we here-to-fore have not collected even a part of the non-compensatory \$6.00/phone/month on these phones. Further, the new compensation of \$.25/call is a long way from \$1.19. The value of the pirated traffic is the incremental revenue lost by the facility owner and their subcontracted supplier. This value is not \$6.00/phone/month or \$.25/call or \$.40/call it is more like a minimum of \$1.19 per call as has been shown herein.

We would be as well off if we were to buy back the traffic and pay AT&T et.al. for the call. The FCC and AT&T et.al. surely would agree to this proposal as it is no more absurd than the present FCC sanctioned thievery.

3. How Did the FCC Come Up With \$.25 Per Call

It has been explained to me by Attorney Al Kramer of the American Public Communications Council that the primary argument for settling on the non-compensatory \$.25 per call is that, that amount is what AT&T is willing to pay of the \$.40 AT&T says the call is worth.

I'm further told that AT&T argues that if they paid the full \$.40 on the call that no one would have an incentive to PIC AT&T since they could PIC any competitor and earn a commission from their non-AT&T PIC and still collect \$.40 from AT&T. The \$.15 between the \$.25 and the \$.40 is supposed to allow AT&T to attract a PIC from a facilities owner. Recall that AT&T offered to buy the traffic from us at 20% commission (i.e. \$.50/call). Their effort failed so now the FCC says they can steal it for \$.25/call.

Apparently the FCC has accepted AT&T et.al.'s argument as reasonable. The argument is reasonable only if there is to be no competition in provision of pay telephone service as only competition between interexchange carriers is recognized with the \$.40 call worth mentality.

The choice of carrier is not the FCC's to determine and it is improper for them to have injected themselves into this issue except to prevent the issuance of proprietary phone cards and to control pricing to AT&T et.al.'s customers. The choice of

carrier on a privately owned pay telephone belongs only to the owner of the facility in which
the pay telephone is located. Even if it was
justifiable for the FCC to inject itself into
this matter their determination of compensation
is incorrect. Their premise is false, lacking
in understanding of basic economics, without
common business sense, an invasion of privacy,
a violation of free choice, counter to established
legal precedent and counter to the recent decision
of Federal Judge Greene.

The FCC created the current problem in part, by not controlling the costs of competitive telecommunications services that AT&T et.al. could charge market entrants. They set the stage for higher charges to the public not lower charges.

The FCC has protected AT&T's piracy of our traffic by allowing AT&T to discriminate against us on billing and collection information in favor of AT&T and the local exchange carriers.

The FCC has allowed AT&T et.al. to decide what carriers will be provided on private facilities by issuing proprietary phone cards and also establishing a compensation for confiscated call traffic that is less than existing or previous commissions.

The logic underlying these decisions did not originate at the Harvard Business School. The FCC has given back the business to the monopolies and sounded the death knell to independent operator services and to private de-regulated provision of pay telephone services.

IV. Status

Two years ago I sent a letter report (attachment dated 2/16/93) to lawmakers and regulators outlining our plight and our degenerating position. Last year I sent an update on the situation (attachment dated 1/4/94) to lawmakers and regulators. The only thing that has changed over the past two years is that the situation has further disintegrated.

We currently pay local exchange companies a monthly charge for service plus an access fee so that end users of our public pay stations can access the interstate network. Now regulations require that we allow our customers, the end users of our pay stations, to use our equipment and service for which we have paid to access AT&T et.al. and to do so without reasonable

and just compensation. To ensure that end users use AT&T, AT&T has issued phone cards that only they can approve and invoice.

We are supposed to be paid, albeit a pittance, for this pirated traffic, but in fact we are not paid, on time, completely, or without a fight (attachment dated 2/20/95). In fact, what we have been paid is less than the access fee that we are forced to pay to allow the persons using our phone to use AT&T et.al. Previous FCC decisions have been clear that the access fee is not to be charged on payphones. Still we are charged and if we don't pay, our service is interrupted by the local exchange carrier. A formal complaint on this issue has languished at the FCC for over 6 years without resolution.

One loud argument that has been used by the local exchange companies to support their improper charge of an access fee is that somehow our phones are not payphones - well if this is so then why does the FCC order that we provide free access for any carrier? We should be able to block access and let the market dictate our success or failure. The access fee we are improperly charged is \$6.00 per phone per month. The continued levee of this improper fee adds insult and further injury to the inequitable situation.

It just is boggling to realize that we pay a fee to the local company to allow interstate access and then AT&T et.al. instruct the end user to dial-around us and use the monopoly carriers instead of us. Further, AT&T pays us less than the access fee for the pirated traffic. If this fee is appropriate - and I offer that it is not - then AT&T ought to pay it.

Beyond the issue of our competitors mandatory non-compensatory use of our facilities we are further required to allow 1-800 calls that aren't carrier access calls, free. Our data shows that 25% of all traffic is this 1-800 non-carrier access calls and the carrier calls amount to about another 25% of our traffic. We handle by calling card about 8% of the traffic and another 42% is handled by us and is coin paid. Note that 42% of the calls amount to 20% of payphone revenue -we collect this - and 33% amounts to 80% of revenue - we collect on 8% of the 33% and 25% are 1-800 business calls for which we collect zero!

One-half of the total pay telephone traffic is pirated by others, sanctioned by regulation and is the lucrative 80% of pay telephone revenue. We provide the service and equipment and get 20% (i.e. the coin revenue) and a small calling card portion, plus a tiny non-compensatory dial-around fee which we have to fight to partially collect.

That telephone calls are a commodity that does not differ in quality to any extent is a fact. If the end user pays a fair competitive price for service it does not matter who provides the service. The end user wants to be able to use his phone card on any phone. The FCC or Courts should require all carriers to provide the address and phone number of the cardholder to all telecommunication suppliers and require just compensation for pirated traffic and the problem will go away.

V. Recap

We are forced to allow end users and all carriers the use of our facility without any compensation for a very large portion of calls made. For carrier access calls we are supposed to get a miniscule non-compensatory amount - which we either don't get at all or we have to fight to receive. Adding insult to this, we pay for the calls we do complete at and above retail and we pay access fees so that our customers can access AT&T et.al. at our pay station. AT&T et.al. issues credit cards that only they can bill and collect and AT&T and the FCC enables their use on our phones. In addition, we provide 1-800 calls free. Our investment is stranded and we now face a very real prospect of failure.

The public deserves good telephone service at a fair cost. It does not matter to the end user which carrier is used so long as the calls are complete, clear, prompt, and at competitive rates. We have provided and will provide that service at competitive rates with evenhanded regulatory fairness. At present, we see only a bleak and disintegrating situation which will force my wife and I out of business and many more like us. We will lose our investment and likely be ruined.

Please take immediate steps to correct the situation. Stop the abuse of monopoly power and reverse the recent FCC decisions that have created this injustice. The issues that law and regulation should address are the rates we are charged by AT&T et.al. and anti-trust regulations directed toward the government created and protected monopolies. When our industry is provided fair pricing from AT&T et.al. we can keep our rates at or less than AT&T et.al. and enjoy growth, market share and the public will enjoy lower overall rates for equivalent call quality and service.

V. Action Requested by Law and Regulation

Please implement laws or regulations that require:

1. The costs charged to us by local and long distance carriers be comparable to their own costs plus a fair mark-up (i.e. wholesale).

At present, we pay retail and retail plus for our telecommunications services.

2. We must be able to invoice monopoly calling cards. AT&T shares card authorization billing and collection information with the local exchange companies but refuses to share with us.

We currently have access to authorization billing and collection data on cards issued by local exchange companies only - not to AT&T's sneaky, secret proprietary phone cards.

AT&T argues that they should not have to share the billing information on their cards with us. The current situation is that we <u>must</u> share our pay stations and call processing equipment with all carriers and pay an access fee to boot. So why is their card held sacred?

3. We must be paid adequately and fairly for all traffic that originates on our pay stations.

We are forced to hand over 0+ traffic for a pittance and provide 1-800 business calls free. AT&T et.al. pirates our traffic and if we get paid at all it's less than AT&T pays in commission to locations that PIC AT&T and less than the access fee we are forced to pay by the local exchange companies.

4. If items 1, 2 and 3 are satisfactorily addressed then a temporary cap on rates at current tariffs of the dominant carriers may be appropriate. After competitors receive a foothold, full deregulation of consumer rates can follow.

Respectfully

Terrence S. Fox

attachments

200 W. Cecil St., P.O. Box 807, Neenah, WI 54957-0807 (414) 727-1313 - Fax (414) 727-1311

February 16, 1993

Re: Complaint - against AT&T and local exchange companies nationwide

Attached please find a chart (Exhibit I) whereupon the degenerating position that public pay station companies such as C.F. Communications Corp. (CFCC) face in the calling card segment of our business is depicted. Off-Net card calls are calls made and charged to valid phone cards that are issued by telephone companies with which no entity other than traditional telephone monopolies have billing and collection agreements. AT&T CIID card calls are calls made and charged to AT&T issued semi-proprietary cards. AT&T will not allow non-traditional telephone monopolies access to the data base so that a name and address can be associated with the card. Hence CFCC cannot bill and collect for placement of these calls. The FCC has ruled - cc Docket No. 92-77 - that they will not order AT&T to provide equal access to this data base. This decision is outrageous and so is the position that this decision places this industry.

Notice from Exhibit I that over the past twenty-two months the use of Off-Net cards has dropped from 10% to 5% of gross call records submitted for billing and collection. This is a result of continued success in writing more and more billing and collection agreements with local exchange companies (LECs). Also note that during the same time period AT&T has issued ever more of its proprietary CIID cards. Their use by the public on our pay stations has increased from 10% to 22% of total call records submitted for billing and collection.

Billing and collection costs are the charges we incur to have the local exchange companies collect, on our behalf, for calls made on our equipment and charged to cards that are issued by the LECs.

Note that these charges have also increased from about 15% to about 25% of total call records submitted. We are charged much more for billing and collection services than the LECs charge each other! The double injustice of this state of affairs is that AT&T and the LECs charge us retail rates to complete these calls that are charged to Off-Net and CIID cards by the public and CFCC can't bill and collect from the customer. The public gets free calls and we pay for completing the calls!

Attached please find Exhibit II which depicts the revenue producing and non-revenue producing calls placed on our public pay stations by type of call. Last year the FCC ordered that call aggregators such as CFCC be paid some compensation for providing unblocked equal access to any inter-exchange carrier of choice to the end user. The rate of compensation set was a ridiculously low \$6.00 per month per pay station and we have been paid less than 20% of that, to date. Further, as depicted on the pie chart (Exhibit II) 39.8% of all calls made are non-compensatory. CFCC must pay for the completion of the calls charged to Off-Net and CIID cards and our phones are tied up nearly 40% of the time by non-revenue producing calls. The logic behind \$6.00 per pay station per month is non-existent. Six dollars per pay station per month for 40% of traffic equates to \$15.00 per pay station per month for 100% of traffic. Our average cost for Off-Net and CIID card calls is \$0.72 per call - thus \$0.72 per call not \$6.00 per phone per month 80% uncollected, is appropriate. To put this matter into proper perspective and requiring local exchange companies and inter-exchange companies to pay us the same as they charge us for traffic would result in \$200.00 per pay station per month!

Twenty-seven percent of calling card calls are currently Off-Net and CIID calling card calls. The 27% use of non-billable calling card calls represents 3% of total calls made on our public pay stations but it represents 17% of total revenue, if CFCC could bill and collect (Exhibit III). These circumstances are outrageous and fly in the face of basic fairness and justice. The current situation is analogous to a gasoline purchaser being allowed to go to a service station and 40% of the time get his gas from the station and pay no one or someone other than the station owner for the gas.

All the while this is going on in the communications industry the Commissioners and the staff of the regulatory bodies are doing nothing to establish fairness. CFCC has been financially compromised on these issues for nearly eight years.

February 16, 1993 Page 3

Specifically we need that:

- 1) AT&T and any other card issuing entity must provide equal access to their data base for validation of cards and for billing information.
- 2) All local exchange companies must provide billing and collection services to all carriers on equal financial terms.
- 3) Adequate compensation for non-revenue producing 1-800, 1-950 and 10xxx calls and other underlying carrier handled calls. Our average cost for Off-Net and CIID card calls is \$0.72 per call thus \$0.72 per call not \$6.00 per phone per month 80% uncollected, is appropriate.

Please act without further delay - eight years is long enough for CFCC and others to suffer while AT&T posts a Billion dollar fourth quarter profit! AT&T and the local exchange companies are realizing their huge profits in part by taking financial advantage of CFCC and others like us.

Respectfully,

Terrence S. Fox Chairman, C.E.O.

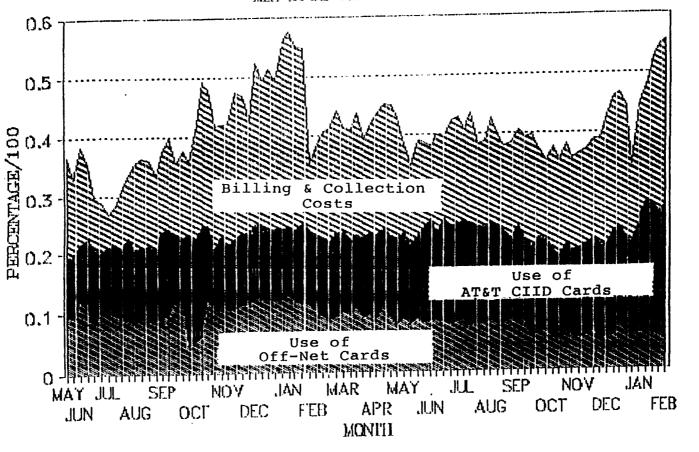
TSF: kmc

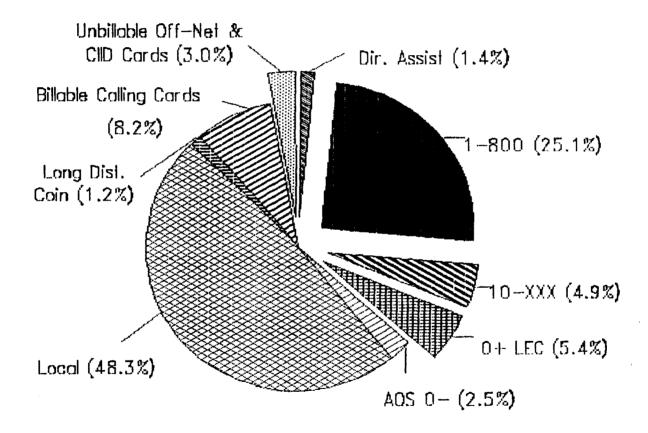
attachments: Exhibit I

Exhibit II Exhibit III

02/17/93





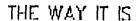


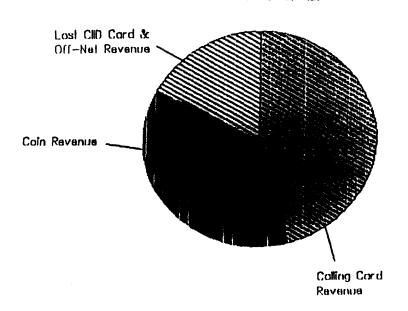
Exploded segments are non-revenue producing calls except for the \$6.00 per pay station per month that we haven't been paid.

REVENUE DISTRIBUTION

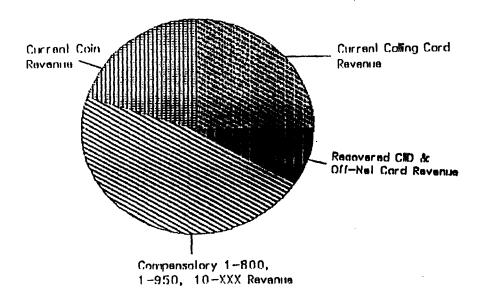
C.F. Communications Corp.

02/17/93





THE WAY IT SHOULD BE





200 W. Cecil St., P.O. Box 807, Neenah, WI 54957-0807 (414) 727-1313 - Fax (414) 727-1311

January 4, 1994

Re: Letter sent one year ago - copy attached.

Dear

Last year I sent the referrenced letter to the address list included with the letter. This letter outlined the unjust plight of families, such as mine, who are engaged in supplying public pay telephone service alternatively to the established telephone monopolies.

A year has now gone by and the only thing that has changed is this years address list. There are a number of new Commissioners, a number of new staff employees of the regulatory Commissions and a number of new Legislators. We hope to get iustice now.

The local telephone companies and AT&T continue to keep our costs much higher than their own (AN ABUSE OF MONOPOLY POWER) and steal our traffic without just compensation. The previous Commissions by their actions and inactions created this situation and have perpetuated it for nearly 10 years.

Some of last years addressees responded to my letter. did respond mostly referred the issue to the Federal Communications Commission (FCC) or to the state regulatory Commissions. My plight and the plight of others who are struggling in this fledgling industry, is due to the prior discriminatory orders of these Commissions and the nonresponsiveness of the Commission to provide an even handed set of regulations for both the private and monopoly providers of public pay telephones. Now, with new Commissioners we hope to obtain justice.

January 5, 1994 Page 2.

Please, take this issue seriously as our industry is having the economic life squeezed out of it. We demand and deserve equal treatment under the law and under regulations which we currently do not enjoy.

Please, halt the ABUSE OF MONOPOLY POWER! Specifically what is needed is:

Regulation and/or legislation to provide equal treatment under the Law:

- The costs charged to us by the local monopoly telephone companies for service, must be comparable to their own costs.
- 2. We must be allowed to invoice monopoly (i.e. AT&T) calling cards. Now they steal our customers!
- 3. We must be equitably compensated for traffic originating on our equipment that is currently stolen from us by AT&T and the local telephone companies.

Respectfully,

Æerrence S. Fox President CFCC

Vice President CFCI

Attachments: 1. Last years letter and address list

2. This years address list



200 W. Cecil St., P.O. Box 807, Neenah, WI 54957-0807 (414) 727-1313 - Fax (414) 727-1311

February 20, 1995

Attorney Al Kramer Keck, Mahin & Cate Attorneys at Law 1201 New York Avenue NW Penthouse Suite Washington, DC 20005-3919

Dear Al,

While I'm waiting for a response from APCC (i.e. Bob Aldrich) regarding my letter of January 26, 1995 (copy attached) I have additional points I'd like to make with you.

- 1. Since the advent of AT&T proprietary cards and mandatory Dial-Around access our revenue generating calling card traffic has decreased to 25% of its original volume.
- 2. AT&T, Sprint and MCI have disputed the existence of 680 of our ANI quarters, times three months, times \$6.00 equals \$12,240! They will not accept copies of monthly phone bills as proof of these ANIs. They demand LEC letterhead confirmation. The LECs have no obligation to provide letters of confirmation and usually do not or they require unreasonable coaxing on our part to get them to produce a letter confirmation on their letterhead.
- 3. Simultaneously the LECs demand EUCL fees of \$6.00 per month per ANI so that AT&T's customers can access AT&T! That's right Al, we are forced to pay EUCL charges for access, so that AT&T, MCI et. al. can be accessed by their customers on our equipment, and then AT&T et. al. doesn't pay us for the service!